

2872-IFW

PATENT

Docket: 1232-4673

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Hideki Sato

Serial No. : 09/764,679 Group Art Unit: 2872

Filed : January 18, 2001 Examiner: Robinson, Mark A.

For : OPTICAL SCANNING APPARATUS AND PROJECTING
APPARATUS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO ELECTION REQUIREMENT

This submission is responsive to the Official Action dated September 21, 2004 in which the pending claims 1-16 were subject to an Election Requirement.

In the Official Action, Applicants are required to elect a single disclosed species for prosecution on the merits from the following alleged species:

- Species 1 – a device according to the first embodiment;
- Species 2 – a device according to the second embodiment;
- Species 3 – a device according to the third embodiment;
- Species 4 – a device according to the fourth embodiment;
- Species 5 – a device according to the fifth embodiment;
- Species 6 – a device according to the sixth embodiment;
- Species 7 – a device according to the seventh embodiment;
- Species 8 – a device according to the eighth embodiment;

In response to the Election Requirement, Applicants provisionally elect to pursue prosecution of the species of the device according to the third embodiment, related to Fig. 8, on which pending claims 1-16, as well as new claim 17 (added by way of the concurrently filed

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Preliminary Amendment) are readable. The Office Action states that claim 1 is considered to be generic.

Applicants believe that the election requirement is improper and therefore make the above provisional election with traverse. More specifically, Applicants respectfully submit that (1) Applicants are entitled to a reasonable number of embodiments disclosed in an application in accordance with C.F.R. § 1.146; and (2) there would be no undue burden on the Examiner to conduct a substantive examination of the claims as related to the embodiments disclosed in the application. Therefore, Applicants respectfully request that the election requirement be withdrawn.

AUTHORIZATION

No extension fees are believed necessary in connection with this response. Should an additional extension of time be required, such extension is hereby petitioned. The Commissioner is authorized to charge any such fees which may be required for this paper or credit any overpayments to Deposit Account Number 13-4500, Order No. 1232-4673


An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: October 21, 2004

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